



BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-851]

Certain Preserved Mushrooms from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results and Notice of Amended Final Results of the Antidumping Duty Administrative Review; 2010-2011

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On May 19, 2014, the United States Court of International Trade (the Court) issued final judgment in *Blue Field (Sichuan) Food Indus. Co., Ltd. v. United States*, Court No. 12-00320, sustaining the Department of Commerce's (the Department) final results of redetermination pursuant to remand.<sup>1</sup> In the *Remand Results*, under protest, the Department recalculated the surrogate values for rice straw and cow manure reported by Blue Field (Sichuan) Food Indus. Co., Ltd. (Blue Field).<sup>2</sup> Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co., v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results of the antidumping duty administrative review of certain preserved mushrooms from the People's Republic of China covering the period February 1, 2010, through January 31, 2011, and is

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<sup>1</sup> See Final Results of Redetermination Pursuant to Court Remand, Certain Preserved Mushrooms from the People's Republic of China, *Blue Field (Sichuan) Food Indus. Co., Ltd. v. United States*, Court No. 12-00320; Slip Op. 13-142 (CIT November 14, 2013), dated March 18, 2014 (*Remand Results*), available at <http://enforcement.trade.gov/remands/index.htm>.

<sup>2</sup> See generally *Remand Results*.

amending the final results with respect to the weighted-average dumping margin assigned to Blue Field.<sup>3</sup>

EFFECTIVE DATE: (INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.)

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Davina Friedmann, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4475 or (202) 482-0698, respectively.

SUPPLEMENTARY INFORMATION:

On September 12, 2012, the Department issued the *Final Results*.<sup>4</sup> Blue Field, an exporter of subject merchandise, timely filed complaints with the Court to challenge certain aspects of the *Final Results*. Specifically, Blue Field challenged the surrogate values assigned by the Department to its reported inputs of rice straw and cow manure. On November 14, 2013, the Court remanded the *Final Results* and instructed the Department to reconsider its calculation of Blue Field's surrogate values for rice straw and cow manure.<sup>5</sup> On remand, and under protest, the Department recalculated Blue Field's surrogate values for rice straw and cow manure using data from India.<sup>6</sup> As a result, Blue Field's margin changed from 308.33 percent to 82.04 percent.<sup>7</sup> On May 19, 2014, the Court entered judgment sustaining the Department's *Remand Results*.<sup>8</sup>

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the

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<sup>3</sup>See *Certain Preserved Mushrooms from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 55808 (September 11, 2012) (*Final Results*), and accompanying Issues and Decision Memorandum.

<sup>4</sup>See *id.*

<sup>5</sup>See *Blue Field (Sichuan) Food Indus. Co., Ltd. v. United States*, 949 F. Supp. 2d 1311, 1334-35 (CIT November 14, 2013).

<sup>6</sup>See generally *Remand Results*,

<sup>7</sup>See *id.* at 14.

<sup>8</sup>See *Blue Field (Sichuan) Food Indus. Co., Ltd. v. United States*, Court No. 12-00320 (CIT May 19, 2014)

Federal Circuit has held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision not “in harmony” with a Department determination, and must suspend liquidation of entries pending a “conclusive” court decision. The Court’s May 19, 2014, judgment sustaining the *Remand Results* constitutes a final decision of the Court that is not in harmony with the Department’s *Final Results*. This notice is published in fulfillment of the publication requirement of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. The cash deposit rate will remain the PRC-wide entity rate (which includes Blue Field) established for the subsequent and most-recent period during which the PRC-wide entity was reviewed.<sup>9</sup>

#### Amended Final Determination

Because there is now a final court decision, the Department amends the *Final Results* with respect to Blue Field. The revised weighted-average dumping margin for Blue Field during the period February 1, 2010, through January 31, 2011 follows:

Exporter	Weighted Average Dumping Margin (Percent)
Blue Field (Sichuan) Food Industrial Co., Ltd.	82.04

In the event the Court’s ruling is not appealed, or if appealed and upheld by the Federal Circuit, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries of the subject merchandise exported by Blue Field using the revised assessment rate calculated by the Department in the *Remand Results*.

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<sup>9</sup> See *Certain Preserved Mushrooms from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review 2012-2013*, 79 FR 12150, 12152 & n.16 (March 4, 2014).

This notice is issued and published in accordance with sections 516(A)(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: May 28, 2014.

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Paul Piquado,  
Assistant Secretary  
for Enforcement & Compliance.

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